

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

Yvonne Williams,	)	Case No. 4:24-cv-00427-JDA
	)	
Plaintiff,	)	
	)	
v.	)	<b><u>OPINION AND ORDER</u></b>
	)	
United States Office of Personnel	)	
Management; Kiran Ahuja, <i>in her</i>	)	
<i>official capacity as Acting Director of</i>	)	
<i>the United States Office of Personnel</i>	)	
<i>Management,</i>	)	
	)	
Defendants.	)	

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This matter is before the Court following a Text Order to show cause why the Court should not dismiss the action without prejudice for failure of service. [Doc. 14.] Plaintiff failed to respond to the Court's Order. Accordingly, and for the reasons set forth below, the Court concludes that this action should be dismissed without prejudice for failure to serve the proper parties under Rule 4(i)(2) of the Federal Rules of Civil Procedure.

Plaintiff filed her Complaint on January 26, 2024, alleging that Defendants erroneously withheld some of her retirement disbursements. [Doc. 1.] On May 15, 2024, the Court entered an Order directing Plaintiff to advise the Court whether service had been effectuated as to the named defendants and warned Plaintiff that failure to respond would result in the dismissal of this matter without prejudice. [Doc. 7.] Plaintiff responded by filing executed summonses from Defendants United States Office of Personnel Management and Kiran Ahuja in her official capacity as Acting Director of the United States Office of Personnel Management. [Doc. 11.] Plaintiff did not, however, file executed summonses from the United States Attorney for the District of South Carolina

or the Attorney General of the United States as required under Rule 4(i)(2) of the Federal Rules of Civil Procedure. On June 3, 2024, the Court entered a Text Order to show cause why the action should not be dismissed without prejudice for failure of service and directed Plaintiff to respond to the Order no later than June 7, 2024. [Doc. 14.] Plaintiff failed to respond to the Court's Order.

The Federal Rules of Civil Procedure require that a defendant be served with a summons and a copy of the complaint within 90 days after the complaint is filed. Fed. R. Civ. P. 4(c)(1), (m). If a defendant is not served within the 90-day period, then “the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m). Rule 4(i)(2) of the Federal Rules of Civil Procedure requires that party attempting to sue a United States agency or corporation, or a United States officer or employee sued only in an official capacity, must “serve the United States and also send a copy of the summons and of the complaint by registered or certified mail to the agency, corporation, officer, or employee.” Fed. R. Civ. P. 4(i)(2). To serve the United States, a party must (1) (a) deliver a copy of the summons and complaint to the United States attorney for the district where the action is brought or (b) send a copy of each by registered or certified mail to the civil-process clerk at the United States attorney's office and (2) send a copy of each by registered or certified mail to the Attorney General of the United States.\* Fed. R. Civ. P. 4(i)(1).

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\* The Rule also provides that if the action challenges an order of a nonparty agency or officer of the United States, the party must send a copy of the summons and complaint by registered or certified mail to the agency or officer. Fed. R. Civ. P. 4(i)(1)(C).

Under Rule 4(i), Plaintiff was required to serve the United States Attorney for the District of South Carolina and the Attorney General of the United States but has failed to do so. Further, Plaintiff failed to respond to the Court's Text Order to show cause why the action should not be dismissed without prejudice for failure of service. Therefore, this action is DISMISSED without prejudice.

IT IS SO ORDERED.

s/ Jacquelyn D. Austin  
United States District Judge

June 12, 2024  
Florence, South Carolina